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Attorneys for Movant, NEW LINE MORTGAGE, DIV. REPUBLIC MORTGAGE HOME  
LOANS, LLC

**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

In re

TODD KENNETH WESTLUND AND AMY  
RUTH WESTLUND,

Debtors.

NEW LINE MORTGAGE, DIV. REPUBLIC  
MORTGAGE HOME LOANS, LLC, its  
assignees and/or successors in interest,

Movant,

vs.

TODD KENNETH WESTLUND AND AMY  
RUTH WESTLUND, Debtors; and ROBERT  
A. HAWKINS, Chapter 7 Trustee,

Respondents.

Case No. 10-14117

Docket Control No.: SML-1

(Chapter 7)

**MOTION FOR RELIEF FROM THE  
AUTOMATIC STAY**

**[Pursuant to Local Rule 9014-1(f)(1)]**

Date: June 22, 2010

Time: 1:30 p.m.

Place: Department A, Courtroom 11  
2500 Tulare Street, 5th Floor  
Fresno, California

**TO THE HONORABLE WHITNEY RIMEL, THE DEBTORS, CHAPTER 7  
TRUSTEE AND ALL OTHER INTERESTED PARTIES:**

NEW LINE MORTGAGE, DIV. REPUBLIC MORTGAGE HOME LOANS, LLC,  
its assignees and/or successors in interest ("Movant") submits the following motion in support of its  
request for relief of the automatic stay:

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1 The Bankruptcy Court has jurisdiction over this proceeding pursuant to 11 U.S.C.  
2 Section 362 and 28 U.S.C. Section 157 and it is a core proceeding within the definition of 28 U.S.C.  
3 Section 157(b).

4 On April 18, 2010, TODD KENNETH WESTLUND AND AMY RUTH  
5 WESTLUND (hereinafter referred to as "Debtors") filed a Petition under Chapter 7 of the  
6 Bankruptcy Code in the United States Bankruptcy Court, Eastern District of California, Case No.  
7 10-14117.

8 ROBERT A. HAWKINS was appointed Trustee, has duly qualified, and is now  
9 acting in that capacity.

10 On or about December 20, 2007, NEW LINE MORTGAE, DIV. REPUBLIC  
11 MORTGAGE HOME LOANS, LLC, made a loan in the amount of \$282,829.00 ("Loan") to  
12 Debtors. In exchange for the Loan, Debtors executed and delivered a note in the original principal  
13 amount of \$282,829.00 ("Note") to NEW LINE MORTGAE, DIV. REPUBLIC MORTGAGE  
14 HOME LOANS, LLC. As additional consideration, and as security for repayment of the Loan,  
15 Debtors made, executed, and delivered to NEW LINE MORTGAE, DIV. REPUBLIC  
16 MORTGAGE HOME LOANS, LLC, as beneficiary, a Deed of Trust ("Deed") dated December 20,  
17 2007. True and correct copies of the Note and the Deed are attached hereto as Exhibits "1" and "2"  
18 and are incorporated herein by reference to the Declaration of CHRISTINA MCNELLY filed  
19 concurrently herewith and incorporated herein by reference.

20 The Deed encumbers the property commonly known as **2013 SHASTA DRIVE,**  
21 **ATWATER, CA 95340** ("Property").

22 Both the Note and the Deed require monthly payments of principal and interest to be  
23 made by Debtors.

24 The Debtors are delinquent in making the payments required under the Note and the  
25 Deed. Payments are due from February 1, 2009 in the total amount of \$32,931.23, including late  
26 charges. Further, Movant anticipates that the May 2010 payment and late charge will be due by the  
27 Hearing.

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1 As of April 24, 2010, the total indebtedness secured by the aforementioned Note and  
2 Deed consists of an unpaid principal balance of \$279,355.87. Interest of \$21,916.05 is due, plus  
3 interest thereon at the rate of 6.0000% per annum. There are additional charges in the amount of \$  
4 949.62 for late charges, \$3,303.40 for other charges, less \$1,859.39 in Debtors' Suspense, plus  
5 attorneys' fees and costs. The total amount due and owing to Movant is \$303,665.55. See  
6 Declaration of CHRISTINA MCNELLY.

7 The total amount of liens and encumbrances known to Movant amount to  
8 \$303,665.55.

9 Movant has not recorded a Notice of Default on the subject property.

10 Debtors have breached their obligation to Movant by failing to tender regular  
11 monthly payments pursuant to the terms and provisions of the subject Note and Deed.

12 Movant requests that the Court take judicial notice of the costs of sale of real  
13 property through escrow amount to eight percent (8.00%) of the purchase price. Eight percent  
14 (8.00%) of \$149,682.00 is \$11,974.56. When the costs of sale are added, the total liens and  
15 encumbrances against the property equal \$303,665.55, thereby leaving minimal equity for the  
16 benefit of the unsecured creditors of the estate.

17 Debtors' Schedules "A" and "D" indicate that the fair market value for the subject  
18 property is \$149,682.00. See Request for Judicial Notice filed concurrently herewith.

19 **In addition, Debtors' Statement of Intentions indicates that the Debtors intend**  
20 **to surrender said property. See Request for Judicial Notice filed concurrently herewith.**

21 Movant desires to enforce its rights under the Note and the Deed by, among other  
22 things, pursuing foreclosure proceedings. Accordingly, Movant hereby requests that the automatic  
23 stay against enforcement by Movant of its rights under the Note and the Deed be terminated and  
24 that Movant be permitted to proceed in enforcing its rights, including but not limited to, foreclosing  
25 under the Note and the Deed as permitted by state law.

26 **WHEREFORE**, Movant prays as follows:

27 1. The automatic stay of 11 U.S.C. §362 be terminated for cause, including lack of  
28 adequate protection, so that Movant may exercise any and all rights under its Note and Deed and  
any and all rights after the foreclosure sale, including but not limited to, the right to consummate

1 foreclosure proceedings and the right to proceed in an unlawful detainer action to obtain possession  
2 of the subject property;

3 2. All restraining orders and stay orders issued shall be dissolved forthwith;

4 3. That the provisions of Federal Rules of Bankruptcy Procedure Rule 4001(a)(3) not  
5 apply; and

6 4. For such other and further relief as this Court deems proper.  
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8 Dated: May 12, 2010

ALVARADO & ASSOCIATES, LLP

9  
10 By /s/ Steven M. Lawrence  
11 Steven M. Lawrence, Attorneys for Movant, NEW  
12 LINE MORTGAGE, DIV. REPUBLIC MORTGAGE  
13 HOME LOANS, LLC  
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